STATE OF CALIFORNIA – THE RESOURCES AGENCY GRAY DAVIS, GOVERNOR

CALIFORNIA COASTAL COMMISSION

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Filed: September 15, 2000
Hearing Opnd: October 11, 2000
Staff: Robert Merrill
Staff Report: March 2, 2001
Hearing Date: March 14, 2001
Commission Action:

STAFF REPORT:
DE NOVO HEARING ON APPEAL

LOCAL GOVERNMENT:	County of Mendocino
DECISION:	Approval with Conditions
APPEAL NO.:	**A-1-MEN-00-043**
APPLICANT:	**WILLIAMS COMMUNICATIONS INC.**
APPELLANT:	**Coastal Residents Coalition**
PROJECT DESCRIPTION:	Install the coastal zone portions of two fiber optic cables and associated facilities extending from the Manchester Radio Facility near Point Arena to the central valley communities of Robbins and Sacramento.
PROJECT LOCATION:	There are two main routes within the coastal zone of Mendocino County, both beginning at the Manchester Radio Facility, in Manchester. The

route to Robbins goes east along Kinney Road, south on Highway 1, east on Mountain View Road to the coastal zone boundary. The route to Sacramento goes east along Kinney Road, south on Highway 1, east on Riverside Drive and Eureka Hill Road, south on Ten Mile Road, Ten Mile Cut-off Road, and Iversen Road, then East on Fish Rock where it leaves the coastal zone.

APPROVALS REQUIRED BY OTHER AGENCIES:

Dept of Fish & Game. Streambed Alteration Agreements for stream crossings and drainage crossings granted.

Regional Water Quality Control Board. (1) Section 401 of the Clean Water Act Water quality Certification granted; (2) NPDES permit granted; and (3) Stormwater Pollution Prevention Plans approved June, 2000

U.S. Army Corps of Engineers. Nationwide Permit No. 12 under Clean Water Act for discharges associated with excavation, backfilling or bedding of utility lines granted for portions of cable lines outside of coastal zone. No Corps permits needed within coastal zone.

Caltrans. Encroachment Permits granted.

Mendocino County Transportation Department. Encroachment Permits granted

SUBSTANTIVE FILE DOCUMENTS: Mendocino County CDU 5-2000
Mendocino County Local Coastal Program.

STAFF NOTES:

1. Procedure

On November 17, 2000, the Coastal Commission found that the appeal of Mendocino County's approval raised a substantial issue with respect to the grounds on which the appeal had been filed, pursuant to Section 13115 of the Title 14 of the California Code of Regulations. As a result, the County's approval is no longer effective, and the Commission

must consider the project de novo. The Commission may approve, approve with conditions (including conditions different than those imposed by the County), or deny the application. Since the proposed project is within an area for which the Commission has certified a Local Coastal Program, and is not located between the first public road and the sea, the applicable standard of review for the Commission to consider is whether the development is consistent with Mendocino County's certified Local Coastal Program. Testimony may be taken from all interested persons at the de novo hearing.

SUMMARY OF STAFF RECOMMENDATION DE NOVO: APPROVAL WITH CONDITIONS

The staff recommends that the Commission approve with conditions the coastal development permit for the proposed project on the basis that, as conditioned by the Commission, the project is consistent with the County's certified LCP.

The proposed project consists of the installation of the coastal zone portions of two fiber optic cables and associated facilities extending from the Manchester Radio Facility near Point Arena to the central valley communities of Robbins and Sacramento. Since the November hearing on Substantial Issue, the applicant has amended its project description and provided considerable amounts of additional information on the effects of the project on coastal resources. Maps of the specific locations of each environmentally sensitive habitat area along the proposed cable routes have been provided and the project maps and descriptions have been amended to clarify that no portions of the proposed cable lines would be located within environmentally sensitive habitat areas. The applicant would confine the project to existing road rights of way and would use horizontal directional drilling and trenching within or on opposite sides of the roadways from the ESHAs to avoid these resources.

Although horizontal directional drilling can be the least environmentally damaging feasible alternative for avoiding significant impacts to ESHAs, drilling produces a risk of farceurs, where drilling fluids are discharged into the environment. Since the November hearing, the applicant has performed detailed geotechnical analysis of all boring sites in the vicinity of wetlands and drainages to determine appropriate drilling depths to minimize the chances of farceurs. The Commission's Staff Geologist has reviewed the geotechnical analyses and has determined that in general they provide adequate information to enable the drilling contractor to perform borings in an environmentally safe manner. The Staff Geologist has recommended that a supplementary geotechnical analysis be performed in one area at an appropriate time of year where geotechnical borings were not allowed to be performed previously because of seasonal impacts such borings would have caused to the endangered Point Arena Mountain Beaver. This additional information is needed to ensure that unanticipated gravel or cobble layers that could increase the risk of frac-out are not present that could require changes to the drilling recommendations. In addition, the Staff Geologist has recommended that directional drilling be performed consistent with the geotechnical recommendations and

that drilling fluid spill contingency plan be required. The staff recommendation includes special conditions incorporating all of these recommendations as well as requirements that the applicant submit a revised project plan and restoration plan in the event of a significant frac-out from directional boring activities to ensure that adjustments are made to avoid additional farceurs and the impacts of the development will be fully mitigated..

Storm water runoff mitigations are proposed as part of the project and have been required by the State Water Resources Control Board and the Department of Fish and Game. Special conditions of the staff recommendation would require that development be conducted consistent with these measures to ensure consistency with LCP policies on storm water runoff.

Staff also recommends a special condition requiring that detailed plans for the proposed able markers that will mark the presence of the cable lines along the road rights-of-way be submitted that provide for minimizing the visual intrusiveness of the cable markers to ensure that the development would be visually compatible with its rural scenic setting.

As conditioned, staff has determined that the proposed project is consistent with the provisions of the certified Mendocino County LCP.

I. MOTION, STAFF RECOMMENDATION DE NOVO, AND RESOLUTION:

1. MOTION:

I move that the Commission approve Coastal Development Permit No. A-1-MEN-00-043 pursuant to the staff recommendation.

RECOMMENDATION OF APPROVAL:

Staff recommends a **YES** vote. Passage of this motion will result in approval of the permit as conditioned and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

RESOLUTION TO APPROVE PERMIT:

The Commission hereby approves a coastal development permit for the proposed development and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the certified County of Mendocino LCP. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.

II. STANDARD CONDITIONS: (See attached Appendix A)

III. SPECIAL CONDITIONS:

1. **Drilling Fluid Spill Contingency Plan**.

A. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit for Executive Director approval a project-specific horizontal directional drilling ("HDD") fluid monitoring and spill contingency plan that includes: (a) an estimate of a reasonable worst case release of drilling fluids into drainages or wetlands caused by project operations; (b) a clear protocol for monitoring and minimizing the use of drilling fluids during HDD operations, including criteria for identifying an unanticipated drilling fluid release and proposed fracture sealants; (c) a response and clean-up plan in the event of a spill or accidental discharge of drilling fluids; (d) a list of all clean-up equipment that will be maintained on-site; (e) the designation of the onsite person who will have responsibility for implementing the plan and (f) a list of all fluids, additives, and sealants that will be used or might be used, together with Material Safety Data Sheets for each

B. The permittee shall undertake horizontal directional drilling activities in accordance with the approved final plan. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved final plan shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

C. In the event that a spill or accidental discharge of drilling fluids occurs during horizontal directional drilling operations, all construction shall cease and shall not recommence except as provided in subsection (D) hereof:

D. Following discovery of the spill or accidental discharge of drilling fluids, the permittee shall submit to the Executive Director a revised project and restoration plan prepared by qualified professional(s) that provides for (1) necessary revisions to the proposed project to avoid further spill or accidental discharge of drilling fluids, and (2) restoration of the area(s) affected by the spill or accidental discharge to pre-project conditions. The revised project and restoration plan shall be consistent with any applicable requirements of the State Water Resources Control Board and the California Department of Fish & Game. The revised project and restoration plan shall be processed as an amendment to the coastal development permit unless the Executive Director determines that no amendment is required. Construction may nor recommence until after any necessary amendment to this permit is approved by the Commission or the Executive Director has determined that no amendment is necessary.

2. **Cable Marker Plan**.

A. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit, for the review and [written] approval of the Executive Director, site plans and detail plans of the proposed cable markers demonstrating that the cable markers will be sited and designed compatible with the character of their setting and as unobtrusive as possible. The plan shall demonstrate that the cable markers will be:

1. spaced along the cable line routes on average at least 700 feet apart from one another;
2. designed to be the minimum height above finish grade necessary;
3. designed to be the minimum width or diameter necessary;
4. combined with existing cable markers and other markers and signs to the greatest extent possible;
5. located in proximity to trees, buildings, or other structures as much as possible;

B. The permittee shall undertake development in accordance with the approved final plans. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

3. Revegetation of Disturbed Soil

A. Areas of disturbed soil shall be reseeded and covered with native vegetation as soon as possible after disturbance and achieve no less than 100 percent coverage in 90 days after seeding. Within 100 feet of environmentally sensitive habitat areas, the reseeding shall be performed only with non-invasive species that would not adversely affect the environmentally sensitive habitat area.

B. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit, for the review and [written] approval of the Executive Director, a description of the seed mix to be used for reseeding disturbed areas that demonstrates that the seed mix complies with the requirements of subsection (A) above.

The permittee shall only reseed disturbed areas with the approved seed mix. Any proposed changes to the approved seed mix shall be reported to the Executive Director. No changes to the approved seed mix shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

4. No Development Within Environmentally Sensitive Habitat Areas.

No portion of the approved fiber optic cable lines shall be installed within any environmentally sensitive habitat area as defined in the certified Mendocino County Local Coastal Program including, but not limited to drainages, riparian areas, wetlands, and sensitive plant or animal habitat. The fiber optic cable lines may be attached to bridges to cross above environmentally sensitive habitat areas and may be placed within bores underneath environmentally sensitive habitat areas created by horizontal directional drilling in the locations described within the amended project description for Coastal Development Permit No. A-1-MEN-00-043.

5. Implementation of Proposed Mitigation Measures.

The development shall be performed consistent with the mitigation measures proposed in the amended project description of the permit application for Appeal No A-1-MEN-00-043 received by the Commission on December 20, 2000, as amended through January 19, 2001, consistent with any modifications necessary to comply with the other special conditions contained herein.

6. Implementation of Stormwater Pollution Prevention Plan and Streambed Alteration Agreements.

The development shall be performed consistent with the requirements of the Stormwater Pollution Prevention Plans (as revised through June 2000) approved by the State Water Resources Control Board and the Streambed Alteration Agreements approved by the California Department of Fish & Game for the portions of the proposed cable lines project within the coastal zone. To the extent that there are differences between the mitigation measures proposed in the amended project description of the permit application for Appeal No A-1-MEN-00-043 and the required mitigation measures of either the Stormwater Pollution Prevention Plans approved by the State Water Resources Control Board and the Streambed Alteration Agreements approved by the California Department of Fish & Game, the mitigation measures providing the most stringent protections for coastal resources as determined by the Executive Director shall be implemented.

The permittee shall inform the Executive Director of any changes to the project required by the State Water Resources Control Board or the California Department of Fish & Game. Such changes shall not be incorporated into the project until the applicant obtains a Commission amendment to this coastal development permit, unless the Executive Director determines that no amendment is required.

7. Conformance of Horizontal Directional Drilling Activities to Geotechnical Reports

A. The permittee shall undertake the horizontal directional drilling activities for the proposed fiber optic cable installation development in accordance with all recommendations contained in the following Engineering Geologic Reports:

1. Kleinfelder 2001, "Geotechnical engineering report, proposed optical fiber undercrossings, Williams Communications Routes, California Coastal Zone, Mendocino County, California", 16 p. geotechnical engineering report dated 20 February 2001 and signed by D. Stevens, B. Anderson, S. Korbay (CEG 916) and R. M. Stauber (PE 056153).

2. Kleinfelder 2001, "Summary report of geotechnical investigation, proposed optical fiber undercrossing, study area 1, W-Point Arena-1, W-Point Arena-1A, D-Point Area-C", 4 p. summary geotechnical report dated 20 February 2001 and signed by S. Korbay (CEG 916) and R. M. Stauber (PE 056153).

3. Kleinfelder 2001, "Summary report of geotechnical investigation, proposed optical fiber undercrossing, study area 2, D/R-Point Arena-A", 4 p. summary geotechnical report dated 20 February 2001 and signed by S. Korbay (CEG 916) and R. M. Stauber (PE 056153).

4. Kleinfelder 2001, "Summary report of geotechnical investigation, proposed optical fiber undercrossing, study area 3, WUS-Point Arena-1, W-Point Arena-1B", 4 p. summary geotechnical report dated 20 February 2001 and signed by S. Korbay (CEG 916) and R. M. Stauber (PE 056153).

5 Kleinfelder 2001, "Summary report of geotechnical investigation, proposed optical fiber undercrossing, study area 4, D-Point Arena-6", 4 p. summary geotechnical report dated 20 February 2001 and signed by S. Korbay (CEG 916) and R. M. Stauber (PE 056153).

6. Kleinfelder 2001, "Summary report of geotechnical investigation, proposed optical fiber undercrossing, study area 5, D/R-Point Arena-B, D-Point Arena-5", 4 p. summary geotechnical report dated 20 February 2001 and signed by S. Korbay (CEG 916) and R. M. Stauber (PE 056153).

7. Kleinfelder 2001, "Summary report of geotechnical investigation, proposed optical fiber undercrossing, study area 6, W-Point Arena-

1F, D/R-Point Arena-5A", 5 p. summary geotechnical report dated 20 February 2001 and signed by S. Korbay (CEG 916) and R. M. Stauber (PE 056153).

8. Kleinfelder 2001, "Summary report of geotechnical investigation, proposed optical fiber undercrossing, study area 7, D/R-Point Arena-5B", 3 p. summary geotechnical report dated 20 February 2001 and signed by S. Korbay (CEG 916) and R. M. Stauber (PE 056153).

9. Kleinfelder 2001, "Summary report of geotechnical investigation, proposed optical fiber undercrossing, study area 8, W-Point Arena-2, W-Point Arena-3, D/R-Point Arena-10", 4 p. summary geotechnical report dated 20 February 2001 and signed by S. Korbay (CEG 916) and R. M. Stauber (PE 056153).

10. Kleinfelder 2001, "Summary report of geotechnical investigation, proposed optical fiber undercrossing, study area 9, W-Point Arena-4, W-Point Arena-5", 4 p. summary geotechnical report dated 20 February 2001 and signed by S. Korbay (CEG 916) and R. M. Stauber (PE 056153).

11. Kleinfelder 2001, "Summary report of geotechnical investigation, proposed optical fiber undercrossing, study area 10, W-Eureka Hill-3", 4 p. summary geotechnical report dated 9 February 2001 and signed by S. Korbay (CEG 916) and R. M. Stauber (PE 056153).

12. Kleinfelder 2001, "Summary report of geotechnical investigation, proposed optical fiber undercrossing, study area 11, W-Gualala-1B", 4 p. summary geotechnical report dated 8 February 2001 and signed by S. Korbay (CEG 916) and R. M. Stauber (PE 056153).

13. Kleinfelder 2001, "Summary report of geotechnical investigation, proposed optical fiber undercrossing, study area 12, W-Gualala-1C", 4 p. summary geotechnical report dated 8 February 2001 and signed by S. Korbay (CEG 916) and R. M. Stauber (PE 056153).

14. Kleinfelder 2001, "Summary report of geotechnical investigation, proposed optical fiber undercrossing, study area 13, D/R-Point Arena-10A", 3 p. summary geotechnical report dated 20 February 2001 and signed by S. Korbay (CEG 916) and R. M. Stauber (PE 056153).

15. Kleinfelder 2001, "Summary report of geotechnical investigation, proposed optical fiber undercrossing, study area 1, W-Point Arena-1, W-Point Arena-1A, D-Point Arena-C", 3 p. summary report dated 30 January 2001 and signed by B. Anderson and R. M. Stauber (P.E. C056153).

16. Kleinfelder 2001, "Addendum 1: Study Area 9, W-Point Arena-4, W-Point Arena-5, geotechnical engineering report, proposed optical fiber undercrossings, Williams Communications Routes, California Coastal Zone, Mendocino County, California", 2 p. geological letter report dated 23 February 2001 and signed by R. M. Stauber (PE C056153).

B. Any proposed changes to the horizontal directional drilling activities shall be reported to the Executive Director. No changes shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

8. **<u>Supplemental Geotechnical Investigation for Study Area 13, Near Hathaway Creek</u>**

PRIOR TO THE COMMENCEMENT OF DIRECTIONAL BORING ACTIVITIES AT STUDY AREA 13, as identified in, "Summary report of geotechnical investigation, proposed optical fiber undercrossing, study area 13, D/R-Point Arena-10A," prepared by Kleinfelder, Inc, dated February 20, 2001, the permittee shall submit a supplementary geotechnical investigation report prepared by a licensed geologist or geotechnical engineer that analyzes the results of at least two exploratory soil borings performed near the proposed horizontal directional drilling entry point and exit point at study area 13 near Hathaway Creek. The report shall include a description of the materials encountered at depth, anticipated materials to be found along the length of the horizontal directional bore, and shall make recommendations for the construction of the bore, including its depth beneath the resource. Horizontal direction drilling shall be undertaken in accordance with these recommendations. The geotechnical bores shall be performed only during time periods of the year recommended by the U.S. Fish & Wildlife Service for avoiding significant impacts to the Point Arena Mountain Beaver. If the supplementary geotechnical investigation determines that the bore cannot be drilled safely in the manner previously recommended, the permittee shall not commence directional boring activities at Study Area 13 until the applicant obtains a Commission amendment to this coastal development permit for a revised boring proposal or alternative method for routing the cable line around the resource areas the directional boring was designed to avoid, unless the Executive Director determines that no amendment is required.

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9. Notification of Work and Coastal Commission Staff Inspections

At least one week prior to performing any horizontal directional drilling boring, the permittee shall submit written notice to the Eureka office of the California Coastal Commission of the specific dates when the horizontal directional drilling boring will be performed. The notice shall indicate which boring(s) are to be performed, the dates the work will occur, and a map indicating the precise locations where boring would be performed. The permittee shall promptly notify Commission staff of any changes to the schedule for performing horizontal directional drilling for which notice has previously been given. The permittee shall permit the Coastal Commission staff to enter and inspect the project area for purposes of determining compliance with Coastal Development Permit No. A-1-MEN-00-043.

10. Area of Archaeological Significance

A. The applicant shall comply with all recommendations and mitigation measures contained in the Final Cultural Resources Inventory Report prepared for the project by Jones & Stokes Associates, Inc, dated June, 2000 and cultural resource mitigation measures proposed in the amended project description of the permit application for Appeal No A-1-MEN-00-043 received by the Commission on December 20, 2000, as amended through January 19, 2001, consistent with any modifications necessary to comply with the other special conditions contained herein.

B. If an area of cultural deposits is discovered during the course of the project, all construction shall cease and shall not recommence except as provided in subsection (C) hereof.

C. An applicant seeking to recommence construction following discovery of the cultural deposits shall submit a supplementary archaeological plan for review and approval of the Executive Director that has been prepared by a qualified professional, that describes the extent of such resources present and the actions necessary to protect any onsite Archaeological resources

(i) If the Executive Director approves the Supplementary Archaeological Plan and determines that the Supplementary Archaeological Plan's recommended changes to the proposed development or mitigation measures are de minimis in nature and scope, construction may recommence.

(ii) If the Executive Director approves the Supplementary Archaeological Plan but determines that the changes therein are not de minimis, construction may not recommence until after an amendment to this permit is approved by the Commission and the Executive Director.

11. Conditions Imposed By Mendocino County

This action has no effect on conditions imposed by Mendocino County pursuant to an authority other than the Coastal Act.

12. Cable Installation Documentation.

Within 30 days of the completion of cable installation, the applicant shall submit to the Executive Director of the Coastal Commission the as-built plans, including the depth of burial, of the cable.

13. Condition Compliance

WITHIN 90 DAYS OF COMMISSION ACTION ON THIS CDP APPLICATION, or within such additional time as the Executive Director may grant for good cause, the applicant shall satisfy all requirements specified in the conditions hereto that the applicant is required to satisfy prior to issuance of this permit. Failure to comply with this requirement may result in the institution of enforcement action under the provisions of Chapter 9 of the Coastal Act.

IV. FINDINGS AND DECLARATIONS

The Commission hereby finds and declares as follows:

A. Background

On July 20, 2000, the Mendocino County Planning Commission approved the project with conditions. The approved development consists of the installation of the coastal zone portions of two fiber optic cables and associated facilities extending from the Manchester Radio Facility near Point Arena to the central valley communities of Robbins and Sacramento. The project was appealed to the Board of Supervisors, who upheld the action of the Planning Commission. The County then issued a Notice of Final Action on the permit, which was received by Commission staff on September 13, 2000 (Exhibit No. **X**).

The County attached to its coastal permit a number of special conditions (Exhibit No. **X**). Special Condition No. 4 states that trenching or plowing through riparian areas shall not be permitted within the coastal zone. The preferred method of crossing all streams and

riparian areas shall be attachment to bridges, followed by trenching within a roadway over or under existing culverts, and lastly by directional boring. Special Condition No. 5 states that trenching or plowing through wetlands shall not be permitted within the coastal zone unless there is no other feasible, less environmentally damaging alternative. Prior to initiating any construction activity within any wetland within the coastal zone, the applicant shall submit to the Department of Planning and Building Services a plot plan and written description describing the work proposed, the mitigation measures to be implemented, and information supporting the determination that no other less environmentally damaging alternative is feasible. Special Condition No. 3 states that areas of disturbed soil shall be reseeded and covered with native vegetation as soon as possible after disturbance. No less than 100 percent coverage must be achieved within 90 days after seeding. Special Condition No 2 states that mitigation measures proposed in the Mitigated Negative Declaration (MND) for the protection of biological resources shall apply to all areas that fall within the definition of an Environmentally Sensitive Habitat Area (ESHA) as defined in Coastal Zoning Code Section 20.308.040 (F). Some of the pertinent mitigation measures incorporated in the MND include: (a) establishment of a minimum 20-foot exclusion zone around all threatened, endangered, candidate, and other special status plant species; (b) surveying proposed staging areas before construction and if suitable habitat is found choosing a new site or avoiding with mitigations where feasible; (c) to protect California Native Plant Society (CNPS) special status species from List 2 and 4, limit ground disturbance and other activities to the smallest possible corridors; (d) minimizing disturbance and restoring jurisdictional wetlands to preproject conditions; (e) minimizing disturbance and restoring other waters of the United States to preproject conditions; (f) avoiding disturbance to nesting swallows by implementing timing restrictions, removing nests, and installing mesh netting; and (g) avoiding bat maternity roosts by postponing bridge attachments.

After the close of the local appeal period, the County issued a Notice of Final Action on the coastal development permit, which was received by Commission staff on May 22, 2000 (Exhibit No. **X**). The project was appealed to the Coastal Commission in a timely manner on September 15, 2000, within 10-working days after receipt by the Commission of the Notice of Final Local Action on September 13, 2000. On November 17, 2000 the Coastal Commission found that a substantial issue was raised by the appeal.

In determining that a substantial issue was raised by the appeal, the Commission also adopted findings stating that it would be necessary for the applicant to provide certain additional information to enable the Commission to determine if the project can be found to be consistent with the certified LCP and the public access and public recreation policies set forth in the Coastal Act. Given that the project came to the Commission after an appeal of a local government action, the Commission had not previously been in the position to request information from the applicant. The needed information included: (a) clarification of the project description, (b) a description of proposed site specific erosion control methods, (c) complete wetland surveys based on LUP wetland definitions, (d) a botanical survey of rare plants, (e) a survey of the endangered Point Arena Mountain

Beaver for the proposed cable routes within the range of the species, (f) verification that all necessary archaeological surveys of the project area have been performed, (g) geotechnical investigations of directional boring sites to evaluate concerns over potential spills of bentonite drilling slurrys, and (h) an analysis of the feasibility of installing the cables in conjunction with other proposed fiber optic cable projects.

Since the substantial issue hearing on November 17, 2000, the applicant has amended the project description to delete a previously proposed contingency route extending south from Kinney Road in Manchester along Biaggi Road and to provide more specific description of various project elements including the specific means to be employed to avoid significant impacts to each of the wetlands, drainages, and the other environmentally sensitive habitat areas that would be crossed or skirted by the proposed cable routes. The applicant has provided additional information concerning site specific erosion control methods, the extent of wetlands and sensitive species habitat in the project area, verification that all necessary archaeological surveys have been performed, a more complete alternatives analysis, and geotechnical information for the directional boring sites including site-specific analyses recommending depths for each boring and providing other recommendation on how the borings should be conducted to avoid the potential for farceurs, or spills of drilling slurrys through cracks or other openings in the geologic substrate through which the directional boring is made.

B. Project and Site Description.

Project Overview

Williams Communications, Inc. proposes to install two fiber optic cable lines and related facilities along two routes through the Mendocino County coastal zone. Both routes begin at the Williams telecommunications facility west of Highway 1, at the end of Kinney Road, in Manchester. The facility, where switching and signal regeneration would occur, was recently approved under a separate Coastal Development Permit by Mendocino County The telecommunications facility ties in with the AT&T Japan cable landing at the AT&T telecommunications facility at the same location. The proposed cable routes would terminate in Robbins and Sacramento in the California central valley. A total of approximately 20 miles of these routes are within the Mendocino county coastal zone. Within the inland portions of Mendocino County the installations are permitted uses and installation has begun. The cable installation development is part of a fiber optic cable communications network Williams proposes to install throughout California to provide facilities-based and resale InterLATA and Intra LATA interexchange services.

Each of the two cable lines would involve the installation of several (three or more) high-density polyethylene conduits carrying fiber optic cables. Within the coastal zone, the cable lines would be installed exclusively within existing road rights-of-way. The rights-of-way generally include not only the paved roadway surface itself, but also road

shoulders, and adjacent land area that in some locations may be routinely cleared of vegetation and disturbed by maintenance roadway activities and in other locations is relatively undisturbed. Portions of the cable lines would be installed in all of these kinds of areas found within the road right-of-ways through a combination of trenching, directional boring, and attachment to certain existing bridges.

The two cable projects could serve many of the same users and are planned along separate routes to ensure "diversity," or redundancy, so that if one line is cut or damaged, communications traffic could be routed through the remaining line. The first several miles of the two lines (extending east and south from the Manchester telecommunications facility) actually follow the same roads, but would be installed on opposite sides of the roads to maintain a minimum separation of 25 feet and ensure diversity.

The road rights-of-way that the cable lines would be installed within pass through, by, and over numerous coastal resource areas including the Garcia River, numerous other coastal drainages, wetlands, riparian zones, environmentally sensitive plant and animal habitats, and archaeological resources. The applicant seeks to avoid permanent impacts to these coastal resources by routing the lines outside of these resource areas. The cables would be installed in many areas within horizontal directional bores drilled under resource areas and at certain drainages would be attached to existing roadway bridges to go over drainages. Trenching would only be conducted outside of sensitive habitat areas. The applicant also proposes to avoid or minimize temporary construction impacts through various mitigation measures. The applicant has prepared and received Regional Water Quality Control Board approval of a Stormwater Pollution Prevention Plan that incorporates various best management practices to minimize erosion and sedimentation impacts and reduces the risks of spills of drilling fluids, fuel, and other contaminants. The applicant also proposes to avoid construction disturbance to endangered species during breeding periods and to provide onsite environmental monitors to ensure proper implementation of mitigation measures.

Point Arena to Robbins Route.

There are two main routes proposed, both of which follow portions of two-lane Highway One and two-lane local roads. The Point Arena to Robbins route would begin at the AT&T communications facility at the west end of Kinney Road near Manchester Beach and extend to the community of Robbins in the Sacramento Valley where it would tie into the William's nationwide fiber optic network. The specific route through the coastal zone is shown in Exhibits 1,2, and in Exhibit 7, which shows the line superimposed on a USGS topographic maps. Construction plans showing each segment of the route in greater detail are contained in Exhibit 8. The proposed cable line would run 0.95 miles east along the north side on Kinney Road to its terminus at Highway One, then south along the east side of Highway One for 2.11 miles, then east along the north side of Mountain View Road, until it leaves the coastal zone, a distance of approximately 1.6 miles. After leaving the coastal zone, the route continues through Boonville, Ukiah, and Calpella to a PG&E electrical substation in Redwood Valley, where it connects with

overhead cable to a location near Williams in the central valley, where it then continues to Robbins. A total of 4.66 miles of the Point Arena to Robbins project route is located within the Mendocino County coastal zone.

Point Arena to Sacramento Route

The Point Arena to Sacramento route would also begin at the AT&T communications facility at the west end of Kinney Road near Manchester Beach and extend to Sacramento. The specific route through the coastal zone is show in Exhibits 3,4, and 7. Construction plans showing each segment of the route in greater detail are contained in Exhibit 9. The proposed cable line would run 0.95 miles east along the south side of Kinney Road (on the opposite side of the road from the Point Arena to Robbins cable line), then south along the west side of Highway One 6.21 miles to the City of Point Arena. The portion of the line within Point Arena has already been approved pursuant to a coastal development permit granted by the City of Point Arena that was not appealed to the Commission.. The route leaves Highway 1 in Point Arena and proceeds east along the south side of Riverside Drive, which becomes Eureka Hill Road outside of the City limits. The route continues along the south side of Eureka Hill Road to a point 2.85 miles east of Highway One, then turns south along the west sides of Ten Mile Road and Ten Mile Cutoff Road for a distance of 5.91 miles to the junction with Iverson Road. The cable route then proceeds southeast 1.85 miles along the east side of Iversen Road to Fish Rock Road where the route exits the coastal zone. The cable line continues east along Fish Rock Road and other roads to Yorkville, Cloverdale, Santa Rosa, Napa, Fairfield and Sacramento. A total of 17.77 miles of the Point Arena to Sacramento project route is located within the Mendocino County coastal zone.

Previously Proposed Contingency Route Eliminated

As approved by the County, the project included a contingency route for the portion of the proposed cable lines between the Manchester telecommunications facility and Mountain View Road. This route would have left the Manchester facility along Kinney Road and proceeded south along Highway 1 to Biaggi Road, then west along a previously approved AT&T route, then south back to Highway 1 at Mountain View Road, where it would rejoin the applicant's preferred route. The contingency route was proposed in case the California Department of Transportation (Caltrans) would not grant Williams an easement for both sides of Highway One for the two cable lines, which the applicant believed was a possibility at the time. Since the Commission found Substantial Issue at the November 17, 2000 hearing, the applicant has amended the project description to delete this contingency route as Caltrans has granted the necessary easements along Highway One.

Site Description

The two cable lines are proposed to be installed within rural sections of the Mendocino County coastal zone. For the most part, the westernmost portions of the cable lines

would be installed along the coastal terrace and foothill areas through (a) open space lands, (b) agricultural lands designated in the certified Mendocino Land Use Plan as Agriculture, Rangeland, and (c) rural residential lands designated either as Rural Residential or Remote Residential. Portions of the routes do pass through the rural village of Manchester along Highway One and through the City of Point Arena along Highway One and Riverside Drive. The portions of the cable lines in the eastern parts of the coastal zone would be installed along forested coastal ridges designated mainly as Open Space, Forest Lands, and rural residential designations.

The sections of the proposed cable lines that would extend from the Manchester Telecommunications Facility along Kinney Road and south along Highway One to the City limits of Point Arena are designated highly scenic areas in the certified LCP. The other sections of the route, though not proposed within designated highly scenic areas, would still be in areas with significant visual resources as the lines would follow public roads that traverse through open lands that in many locations afford significant views of the ocean and scenic coastal areas.

The cable line routes would not traverse through any recorded archaeological or paleontological sites, although surrounding lands are areas where such resources could exist.

Given the varied nature of the route passing along coastal terraces, through drainages, and through coastal ridges, the proposed cable lines would pass through area with varying geologic characteristics. Within the coastal zone, the proposed cable lines cross fault zones associated with the San Andreas Fault in three locations. Portions of the routes along Kinney Road and Highway One cross one such fault zone and the Point Arena to Robbins Route crosses another fault zone along Mountain View Road about a mile east of Highway One.

In many locations, the proposed cable lines would pass through areas containing various kinds of environmentally sensitive habitat, including (a) streams and other drainages, many with riparian vegetation, (b) other wetlands, (d) botanical resource areas, and (e) wildlife habitat areas.

Drainages include all natural waterways that are characterized by a bed and bank sustaining flowing water at some time of the year. The drainages along the project routes range in size and volume from the Garcia River to various seasonal drainages. Altogether there are 17 drainages along the project route, including 11 seasonal drainages and 6 perennial. Of the 17 drainages, 11 support riparian habitat. The perennial drainages include Brush Creek (identified as D/R-Point Arena-7), Lagoon Creek (D/R-Point Arena-6), an unnamed drainage about 1,000 feet south of Brush Creek (D/R-Point Arena-5), the Garcia River (D/R-Point Arena-8), Gasker Slough (D/R-Point Arena-9), and Hathaway Creek (D/R-Point Arena-10). Four of these perennial streams, including the Garcia River, Brush Creek , Lagoon Creek, and Hathaway Creek, have been identified by the Department of Fish & Game as supporting, or having the potential to support, certain

special status anadromous fish species. These species include the coho salmon, California coast Chinook salmon, and northern California coast steelhead. In addition, these same four perennial streams have been identified as supporting, or having the potential to support two special status amphibian species, including the foothill yellow-legged frog and the northern red-legged frog. Both of these species are listed as California state species of special concern and federal species of concern.

Besides the aforementioned drainages, other kinds of wetlands exist along the project routes. Botanists conducted wetland surveys during the summer and fall of 1999 and 2000 in conformance with the wetland delineation methodology outlined in the Mendocino County LCP. A total of 21 of these other wetlands were identified along the project routes, and include 4 emergent wetlands (a jurisdictional wetland of the U.S. Army Corps of Engineers based on the prevalence of hydrophytic vegetation, hydric soils, and wetland hydrology), 12 seasonal wetlands (categorized as containing at least one of the three characteristics of emergent wetlands including hydrophytic vegetation, hydric soils, and wetland hydrology), 5 scrub wetlands (defined as habitats with low species diversity characterized by dense thickest of coastal willow), and 4 emergent wetlands (a jurisdictional wetland of the U.S. Army Corps of Engineers based on the prevalence of hydophytic vegetation, hydric soils, and wetland hydrology).

Botanical surveys identified five special status plant species in the vicinity of the project routes. All of these species are California Native Plant Society (CNPS) listed plant populations and include (a) Coast lily (Lily maritimum), (b) California sedge (Carex californica), (c) thin-lobed horekelia (Horkelia tenuiloba), (d) Bolander's reed grass (Calamagrostis bolanderi), and (e) pygmy cypress (Cupressus goveniana ssp. Pigmaea). Altogether, 22 separate habitat areas were identified along the project routes where special status plant species exist.

Habitat for three special status animal species (in addition to the special status anadromous fish and amphibian species discussed previously) were identified by wildlife surveys. Habitat for the Point Arena Mountain Beaver (Aplodontia rufa nigra), a federally listed endangered species that is endemic to the Mendocino County coastal area, was found along the Point Arena to Sacramento cable line route in the vicinity of Hathaway Creek and a nearby unnamed drainage. Habitat for the lotis blue butterfly (Lycaeides argyrognomon lotis), another federally listed endangered species, was found during biological surveys at locations along both proposed cable routes. Two habitat areas were found along Mountain View Road on the Point Arena to Robbins route and five habitat areas were found along Ten Mile Cutoff and Iversen Roads along the Point Arena to Sacramento route. Habitat for the Behren's silverspot butterfly (Speyeria zerene hippolyta), another federally listed endangered species, was found along the Point Arena to Sacramento Route off of Ten Mile Cutoff Road. The historic range of the Behren's silverspot butterfly extends from the mouth of the Russian River in Sonoma County up the coast to Point Arena.

The locations of the environmentally sensitive habitats along the route are shown on the Resource Maps, attached as Exhibit 7. The Point Arena to Robbins route is shown on Map 1 of Exhibit 7. The Point Arena to Sacramento route is shown on Maps 1-5 of Exhibit 7. On the maps, each habitat area has been labeled with a resource number, which uses a nomenclature identifying the general habitat type and the general geographic location. As indicated on the map legends, the habitat type designations are as follows:

W= wetland
D= drainage
D/R = drainage with riparian habitat
WL = wildlife
B = botanical

The general geographic location designations utilized in the resource numbers are as follows:

Point Arena = any habitat location along the Point Arena to Robbins route and any location along the Point Arena to Sacramento route north of Eureka Hill Road.

Eureka Hill= any habitat location along Eureka Hill Road

Gualala = any habitat location along Ten-Mile Cutoff Road, Iverson Road, and Fish Rock Road.

The environmentally sensitive habitats are also shown in the Construction Drawings that show site details for each segment of the proposed cable lines. The Construction Drawings are attached as Exhibits 8 and 9. The Point Arena to Robbins route is shown on Exhibit 8 . The Point Arena to Sacramento route is shown on Exhibit 9. Each habitat is marked on the Construction Drawings and identified by its resource number.

In addition to the Resource Maps and Construction Drawings, a table of the environmental resources found within the coastal zone portions of the proposed cable routes is included in Exhibit 10. Each habitat is listed in the table from the north end of the project area to the south end by resource number, resource type, project route, construction method used to avoid the resource, and the buffer that would be provided between the cable line and the resource. The table also includes references to the appropriate Resource Map and Construction Drawing exhibit pages showing the area where the habitat type is located.

Proposed Facilities

The fiber optic cable systems proposed within the coastal zone would consist of below and above ground components. The below ground components would consist of conduits

and fiber optic cables and utility access vaults with handholes/manholes. The only above ground components proposed are cable marker posts.

- **Conduits and Cables**. Three or more conduits would be installed along each proposed cable line, one for Williams currently proposed fiber optic cable, and the others for maintenance and future use by Williams or other carriers. Each conduit is approximately 1.5 to 2 inches in diameter and is made of flexible, high-density polyethylene. The fiber optic cable consists of bundled glass optical fibers wrapped in plastic sheathing. Each fiber optic cable is about 0.85 inches in diameter and is composed of 96 to 288 hair-thin glass fibers.

- **Utility vaults with handholes/manholes.** Vaults would be placed at 3 to 5 mile intervals to serve as splice points and to assist bier optic cable installation and maintenance. Vaults may be installed at closer intervals in some cases to accommodate tight turns in the route, topography or other factors. The utility access vaults and handholes would be buried 48 inches below grade and measure approximately 30 by 48 by 24 inches. Only the manholes would be visible at the ground surface.

- **Cable marker posts**. Cable markers would be placed at approximately 700-1,000 foot intervals to alert people to the presence of the fiber optic cable. These markers consist of 3.5-inch diameter round PVC posts with orange caps 4 feet above ground. The caps are imprinted with embossed lettering indicating the presence of fiber optic cable.

Fiber optic cable lines usually require optical amplification (OP-AMP) regenerator stations typically placed at 30-40 mile intervals. However, none of the regenerator stations proposed for the applicant's two proposed cable lines would be constructed within the coastal zone.

Staging and Disposal Areas

Storage of equipment and materials for the construction process would be accommodated at a staging area at Bill Hays' Industrial Park within the city limits of Point Arena. The staging area is addressed by the coastal development permit granted for the project by the City of Point Arena and is not a part of Coastal Development Permit Application No. A-1-MEN-00-043. No other staging areas are proposed within the coastal zone. All excess excavated soil and roadway material excavated by the trenching or boring process is proposed to be hauled to the Parnam's Paving facility in Ukiah, outside of the coastal zone. No disposal would occur within the coastal zone.

Basic Construction Techniques

Trenching and directional boring are the two types of construction methods that would be used to install the conduits along the routes through the coastal zone. Directional boring would be used in certain locations where necessary to avoid resource areas and to reduce construction-related traffic impacts

Trenching.

Trenching would be accomplished by use of rubber-tired backhoes or trenchers that would dig a trench 1-foot wide by 4 feet deep in which the conduit is then buried. Larger holes would be dug to accommodate access vaults or handholes/manholes. Conduit installation would occur simultaneously with trenching activities. Thus, typically no more than 1,000 feet of trench would exposed by the work crew at any time during construction and trenches would be filled at the end of each day.

Directional Boring.

Directional boring would be used in locations along the project routes to cross areas where surface disturbance must be avoided, such as underneath streams and highways, or directly adjacent to sensitive habitat areas. The locations of all proposed directional bores are shown on the construction drawings attached as Exhibits 8 and 9 of this report. Proposed directional bore lengths vary from less than 100 feet to more than several hundred feet. To perform the bore, a work area is established on each side of the crossing. One work area contains the "pilot hole" and drilling equipment. The other work area contains the "receiving hole," where the drill bit emerges, and is used to fabricate steel or HCPE casing that may be pulled through the hole. For relatively short bores, smaller drilling equipment is used, and the two work areas would measure approximately 100 by 50 feet. Larger equipment and larger work areas typically measuring approximately 150 by 100 feet would be used for larger bores. Drilling equipment most suitable for site-specific conditions would be used for each bore. Silt fences, straw bails, and other sediment control measures would be installed around these work areas.

During the boring process, a bentonite slurry is typically pumped through the bore hole to help lubricate the drill bit, prevent the bore tunnel from collapsing, and carry drill cuttings to the surface. Bentonite is naturally occurring Wyoming clay know for its hydrophilic characteristics. The slurry is pumped through the bore hole, collected at the surface, passed through machinery to remove the bore cuttings, and then recirculated through the hole. The slurry is stored in tanks at the drill site when not in use. Any excess slurry remaining after the bore is complete would be removed from the site and either reused by the drilling contractor or discarded at an appropriate location.

As approved by the County, the specific bore depth for all but a couple of the bores would have been determined in the field by the drilling contractor. Since the November 17, 2000 hearing when the Commission determined that the project as approved raised a substantial issue of conformance with the policies of the certified LCP, the applicant's

geotechnical engineering consultants have performed geotechnical analyses of many of the proposed bores to determine appropriate bore depths. Such analyses have been performed at 13 separate study areas, including at all bores that would cross underneath a drainage or wetland, and additional bores that would be drilled in close proximity to wetlands.

Mitigation Measures Incorporated Into Project Design

The applicant has incorporated a number of mitigation measures into the project to reduce any significant environmental impacts to less than significant levels. These additional mitigation measures are discussed in detail in other findings of this report and are summarized in tables submitted with the amended project description and attached as Exhibits 11A and 11B. The mitigation measures would include those storm water pollution prevention measures specified in Stormwater Pollution Prevention Plans for each cable line approved by the State Water Resources Control Board. The plans include measures for minimizing site disturbance, controlling water flow over construction sites, stabilizing bare soil, and ensuring proper site cleanup. In addition, the plans specify the erosion and sedimentation control measures to be implemented, such as silt fences, trench plugs, terraces, water bars, baffle boards, and seeding and mulching.

Construction Access.

Access to project routes would be by existing access roads to the road rights-of-way. No new access roads would be created for the proposed fiber optic cable installation.

Installation Sequence and Schedule

The applicant proposes to begin construction of the fiber optic cable lines within the coastal zone as soon as approval is secured from the Commission. The applicant indicates the project is proposed to take approximately 3 months to complete. Work on the portion of the Point Arena to Sacramento cable line that passes by known Point Arena Mountain Beaver habitat in the vicinity of Hathaway Creek would not occur during the winter and spring months which the U.S. Fish & Wildlife Service has determined is a sensitive period for the species and construction activities should not occur. Winter work around drainages for which the California Department of Fish & Game has issued Streambed Alteration Agreements is subject to approval of the Department.

Development Commenced Without Permit

A portion of the proposed development has begun without the benefit of a coastal development permit. The applicant has already installed fiber optic cable along an approximately 800-foot section of the Mountain View Road within the coastal zone.

C. Protection of Wetlands and Drainages

LUP Policy 3.1-4 states:

As required by the Coastal Act, development within wetland areas shall be limited to:

1. Port facility construction or expansion, Section 30233(a)(1).

2. Energy facility construction or expansion, Section 30233(a)(1).

3. Coastal-dependent industrial facilities such as commercial fishing facilities, construction or expansion, Section 30233(a)(1).

4. Maintenance or restoration of dredged depths or previously dredged depths in: navigational channels, turning basins, vessel berthing and mooring areas, and associated with boat launching ramps.

5. In wetland areas, only entrance channels for new or expanded boating facilities may be constructed, except that in a degraded wetland, other boating facilities may be permitted under special circumstances, Section 30233(a)(3). New or expanded boating facilities may be permitted in estuaries, Section 30233(a)(4).

6. Incidental public services purposes, including, but not limited to, burying cables and pipes or inspection of piers and maintenance of existing intake and outfall lines.

7. Mineral extraction, including sand for restoring beaches, except in environmentally sensitive areas.

8. Natural study purposes and salmon restoration projects.

9. Aquaculture, or similar resource dependent activities excluding ocean ranching. (See Glossary).

In any of the above instances, the diking, filling, or dredging of open coastal waters, wetlands, estuaries, and lakes, shall be permitted in accordance with all other applicable provisions of this plan. Such requirements shall include a finding that there is no feasible less environmentally damaging alternative and shall include mitigation measures required to minimize adverse environmental effects, in accordance with Sections 30233 and 30607, and other provisions of the Coastal Act.

LUP Policy 3.1-7 states:

> *(A) A buffer area shall be established adjacent to all environmentally sensitive habitat areas. The purpose of this buffer area shall be to provide for a sufficient area to protect the environmentally sensitive habitat from significant degradation resulting from future developments. The width of the buffer area shall be a minimum of 100 feet, unless an applicant can demonstrate, after consultation and agreement with the California Department of Fish and Game and County Planning Staff, that 100 feet is not necessary to protect the resources of that particular habitat area from possible significant disruption caused by the proposed development. The buffer area shall be measured from the outside edge of the environmentally sensitive habitat areas and shall not be less than 50 feet in width. New land division shall not be allowed if will create new parcels entirely within a buffer area. Developments permitted within a buffer area shall generally be the same as those uses permitted in the adjacent environmentally sensitive habitat area and must comply at a minimum with each of the following standards:*
>
> *(1) It shall be sited and designed to prevent impact which would significantly degrade such areas;*
>
> *(2) It shall be compatible with the continuance of such habitat areas by maintaining their functional capacity and their ability to be self-sustaining and to maintain natural species diversity; and*
>
> *(3) Structures will be allowed within the buffer area only if there is no other feasible site available on the parcel. Mitigation measures, such as planting riparian vegetation, shall be required to replace the protective values of the buffer area on the parcel, at a minimum ratio of 1:1, which are lost as a result of development under this solution.*

LUP Policy 3.1-10 states:

> *Areas where riparian vegetation exists, such as riparian corridors, are environmentally sensitive habitat areas and development within such areas shall be limited to only those uses which are dependent on the riparian resources. All such areas shall be protected against any significant disruption of habitat values by requiring mitigation for those uses which are permitted. No structure or development, including dredging, filling, vegetation removal and grading, which could degrade the riparian area or diminish its value as a natural resource shall be permitted in the Riparian Corridor except for:*

- Channelizations, dams, or other substantial alterations of rivers and streams as permitted in Policy 3.1-9;

- pipelines, utility lines and road crossings, when no less environmentally damaging alternative route is feasible;

- existing agricultural operations;

- removal of trees for disease control, public safety purposes or for firewood for the personal use of the property owner at his or her residence. Such activities shall be subject to restrictions to protect the habitat values.

Sec. 20.496.020 of the Coastal Zoning Code states, in applicable part:

– ESHA – Development Criteria

(A) Buffer Areas. A buffer area shall be established adjacent to all environmentally sensitive habitat areas. The purpose of this buffer area shall be to provide for a sufficient area to protect the environmentally sensitive habitat form degradation resulting from future developments and shall be compatible with the continuance of such habitat areas.

(1) Width. The width of the buffer area shall be a minimum of one hundred (100) feet, unless an applicant can demonstrate, after consultation and agreement with the California Department of Fish and Game, and County Planning staff, that one hundred (100) feet is not necessary to protect the resources of that particular habitat area from possible significant disruption caused by the proposed development. The buffer area shall be measured form the outside edge of the Environmentally Sensitive Habitat Areas and shall not be less than fifty (50) feet in width. New land division shall not be allowed which will create new parcels entirely within a buffer area. Developments permitted within a buffer area shall generally be the same as those uses permitted in the adjacent Environmentally Sensitive Habitat Area.
…

(4) Permitted Development. Development permitted within the buffer area shall comply at a minimum with the following standards:

(a) Development shall be compatible with the continuance of the adjacent habitat area by maintaining the functional capacity, their ability to be self-sustaining and maintain natural species diversity.

(b) Structures will be allowed within the buffer area only if there is no other feasible site available on the parcel.

(c) Development shall be sited and designed to prevent impacts which would degrade adjacent habitat areas. The determination of the best site shall include consideration of drainage, access, soil type, vegetation, hydrological characteristics, elevation, topography, and distance form natural stream channels. The term "best site" shall be defined as the site having the least impact on the maintenance of the biological and physical integrity of the buffer strip or critical habitat protection area and on the maintenance of the hydrologic capacity of these areas to pass a one hundred (100) year flood without increased damage to the coastal zone natural environment or human systems.

(d) Development shall be compatible with the continuance of such habitat areas by maintaining their functional capacity and their ability to be self-sustaining and to maintain natural species diversity.

(e) Structures will be allowed within the buffer area only if there is no other feasible site available on the parcel. Mitigation measures, such as planting riparian vegetation, shall be required to replace the protective values of the buffer area on the parcel, at a minimum ratio of 1:1, which are lost as a result of development under this solution.

(f) Development shall minimize the following: impervious surfaces, removal of vegetation, amount of bare soil, noise, dust, artificial light, nutrient runoff, air pollution, and human intrusion into the wetland and minimize alteration of natural landforms.

(g) Where riparian vegetation is lost due to development, such vegetation shall be replaced at a minimum ration of one to one (1:1) to restore the protective values of the buffer area.

20.496.025 of the Coastal Zoning Code states, in applicable part:

*Wetlands and Estuarie*s

(A) Development or activities within wetland and estuary areas shall be limited to the following:

(1) Port facility expansion or construction.

(2) Energy facility expansion or construction.

(3) Coastal-dependent industrial facilities, such as commercial fishing facilities, expansion or construction.

(4) Maintenance or restoration of dredged depths or previously dredged depths in navigation channels, turning basins, vessel berthing and mooring areas, and associated boat launching ramps.

(5) In wetland areas, only entrance channels for new or expanded boating facilities may be constructed, except that, in a degraded wetland, other boating facilities may be permitted under special circumstances.

(6) New or expanded boating facilities may be permitted in estuaries.

(7) Incidental public services purposes which temporarily impact the resource including but not limited to burying cables and pipes, or inspection of piers, and maintenance of existing intake and outfall lines.

(8) Restoration projects which are allowable pursuant to Section 30233(a)(7) of the Coastal Act

20.496.035 of the Coastal Zoning Code states, in applicable part:

Riparian Corridors and other Riparian Resource Areas.

(A) No development or activity which could degrade the riparian area or diminish its value as a natural resource shall be permitted in the riparian corridor or in any area of riparian vegetation except for the following:

(1) Channelizations, dams or other alterations of rivers and streams as permitted in Section 20.496.030(C);

(2) Pipelines, utility lines and road and trail crossings when no less environmentally damaging alternative route is feasible;

(3) Existing agricultural operations;

(4) Removal of trees for disease control, public safety purposes or personal use for firewood by property owner.

(B) Requirements for development in riparian habitat areas are as follows:

(1) The development shall not significantly disrupt the habitat area and shall minimize potential development impacts or changes to natural stream flow such as increased runoff, sedimentation, biochemical degradation, increased stream temperatures and loss of shade created by development;

(2) No other feasible, less environmentally sensitive alternative exists;

(3) Mitigation measures have been incorporated into the project to minimize adverse impacts upon the habitat;

(4) Where development activities caused the disruption or removal of riparian vegetation, replanting with appropriate nature plants shall be required at a minimum ratio of one to one (1:1) and replaced if the survival rate is less than seventy-five (75) percent. (Ord. No. 3785 (part), adopted 1991)

Section 20.532.100 of the Coastal Zoning Code states, in applicable part:

Supplemental Findings. In addition to required findings, the approving authority may approve or conditionally approve an application for a permit or variance within the Coastal Zone only if the following findings, as applicable, are made:

(A) Resource Protection Impact Findings.

(1) Development in Environmentally Sensitive Habitat Areas. No development shall be allowed in an ESHA unless the following findings are made:

(a) The resource as identified will not be significantly degraded by the proposed development.

(b) There is no feasible less environmentally damaging alternative.

(c) All feasible mitigation measures capable of reducing or eliminating project related impacts have been adopted…

The road rights-of-way that the cable lines would be installed within pass through, by, and over numerous coastal resource areas including the Garcia River, numerous other coastal drainages, wetlands, and riparian zones.

LUP Policies 3.1-4 and 3.1-10 and Coastal Zoning Code Sections 20.496.025 and 20.496.035 limit the allowable development that can occur within wetlands and riparian areas to certain uses, and specifies that those uses can only be located in these areas if there is no feasible less environmentally damaging alternative.

As proposed, no portions of the cable lines would be installed within wetlands, riparian areas, and other drainages. The applicant seeks to avoid permanent impacts to these coastal resources by routing the lines in a manner that avoids the resources. The cables would be installed in many areas within horizontal directional bores drilled under resource areas and at certain drainages would be attached to existing roadway bridges to go over drainages. However, no construction would occur within wetlands and

drainages, and riparian areas. Trenching would only be conducted outside of sensitive habitat areas.

As approved by the County, decisions about how to avoid wetlands and riparian areas would have been left up to the permittee in the field. Development within wetlands and riparian areas was allowed so long as the permittee determined that the development involved the least environmentally damaging alternative and provided adequate mitigation. In finding that the project as approved raised a substantial issue of conformance to the policies of the certified LCP, the Commission found that additional the applicant should provide detailed information about what wetlands as defined under the Mendocino County LCP would in fact be affected by project construction.

Since the hearing on substantial issue, the applicant has provided detailed maps of all the environmentally sensitive habitat areas along the project route, including all wetlands and drainages, and information concerning how the proposed cable lines would avoid these resources. The submitted maps are included as Exhibits 7-9 to this report. Exhibit 10 lists each of the resource areas. The list distinguishes between those wetlands that are considered waters of the United States and within the jurisdiction and the many other wetlands that are do not qualify as wetlands under the Corps jurisdiction but are wetlands as defined under the certified LCP.

As discussed previously, no portion of the proposed cable lines would be installed directly within wetlands and riparian areas, or any other environmentally sensitive habitat area. LUP Policies 3.1-4 and 3.1-10 and Coastal Zoning Code Sections 20.496.025 and 20.496.035 allow for the installation of incidental public service purposes, including, but not limited to burying cables within wetlands and riparian areas. However, these policies only allow such uses within wetlands and riparian areas if there is no feasible less environmentally damaging alternative. The proposed project presents a feasible less environmentally damaging alternative to having to fill wetlands, drainages, and riparian areas for such uses. Therefore, to ensure that the project does not encroach into these resource areas contrary to the feasible less environmentally damaging alternative provisions of LUP Policies 3.1-4 and 3.1-10 and Coastal Zoning Code Sections 20.496.025 and 20.496.035, the Commission attaches Special Condition No. 4. This condition requires that no portion of the approved fiber optic cable lines shall be installed within drainages, riparian areas, and wetlands, and other environmentally sensitive habitat areas. As conditioned, the project is consistent with LUP Policies 3.1-4 and 3.1-10 and Coastal Zoning Code Sections 20.496.025 and 20.496.035.

LUP Policy 3.1.7 requires that a buffer area be established adjacent to all environmentally sensitive habitat areas, and the width of the buffers shall be generally 100 feet. In many locations, the proposed cable route would be located less than 100 feet away from adjacent environmentally sensitive habitat areas. Therefore, these portions of the cable lines would be constructed within the require buffer area.

However, LUP Policy 3.1-7 and Zoning Code Section 20.496.020 do not prohibit all development within ESHA buffer areas. These provisions permit developments within buffer areas that are the same as those uses permitted in the adjacent ESHA. As noted above, buried utility lines such as the proposed buried fiber optic cable lines are allowed within wetlands and riparian areas as incidental public service purposes provided there is no less environmentally damaging feasible alternative. By locating the proposed cable lines within existing road rights-of-way, and avoiding all sensitive resource areas, the proposed project is the least environmentally damaging alternative to connect the Manchester Telecommunications facility with connections in the Central Valley. Routing the cable lines cross-country through roadless areas would require considerably more disturbance to resources as access roads would need to be developed and the project would not be limited to areas previously disturbed for road construction, as is the case with the preferred alternative. Therefore, the Commission finds that the proposed project is consistent with the ESHA buffer requirements of LUP Policy 3.1-7 and Zoning Code Section 20.496.020.

D. Protection of Archaeological Resources

LUP Chapter 3.5 states in applicable part:

> *Coastal archaeological sites and areas subject to archaeological surveys have been mapped by the California Archaeological Sites Survey, and the data is kept in the Cultural Resources Facility, Sonoma State University. … At present, residential development, public access and timber harvesting appear to be the principle sources of destruction of archaeological sites.*

LUP policy 3.5-10 states:

> *The County shall review all development permits to ensure that proposed projects will not adversely affect existing archaeological and paleontological resources. Prior to approval of any proposed development within an area of known or probable archaeological or paleontological significance, a limited field survey by a qua1ified professional shall be required at the applicant's expense to determine the extent of the resource. Results of the field survey shall be transmitted to the State Historical Preservation Officer and Cultural Resource Facility at Sonoma State University for comment. The County shall review all coastal development permits to ensure that proposed projects incorporate reasonable mitigation measures so the development will not adversely affect existing archaeological/paleontological resources. Development in these areas are subject to any additional requirements of the Mendocino County Archaeological Ordinance*.

Section 20.532.095 of the Mendocino Zoning Code in part states that:

> *(A) The granting or modification of any coastal development permit by the approving authority shall be supported by findings which establish that:*
> …
> *(5) The proposed development will not have any adverse impacts on any known archaeological or paleontological resource.*

Archaeological investigation was conducted for the proposed project by Jones & Stokes Associates, Inc. The investigation involved a search of existing records of archaeological sites as well as field reconnaissance.

The records search involved a review of records at the Northwest Information Center of the California Archaeological Inventory at Sonoma State University and other sources. The results of the record search indicated that no previously recorded sites existed in or near the project alignments within the coastal zone, even though several cultural resource surveys had been conducted within the project study area.

The field surveys were mainly conducted between August 1999 and April of 2000. No archaeological resources were identified during the field surveys. In determining that Appeal No. A-1-MEN-00-043 raised a substantial issue of conformance with the policies of the certified LCP, the Commission found that additional archaeological surveys may be needed to the extent that staging, disposal, and other facility sites had not been previously surveyed. Since the substantial issue hearing, the applicant has amended the project description to clarify that no staging, disposal, or other facility sites are proposed within the Mendocino County coastal zone. The project staging area will be located within the City of Point Arena, and development of this staging area was authorized under a separate coastal development permit approved by the City approved for the project. The disposal site is outside the coastal zone in Ukiah. Therefore, no additional field surveys were required.

The proposed project includes various measures to mitigate the environmental effects of the project. These measures include certain archaeological mitigations including provisions to (1) have archaeological monitors present during ground-disturbing activities to ensure unknown sites are not affected by project construction, and (2) stop work if archaeological resources are discovered and have an archaeologist asses the significance of the find, and if necessary, develop appropriate treatment measures in consultation with the State Historic Preservation Office and other appropriate agencies. These proposed measures would help ensure that the proposed project does not adversely affect existing archaeological resources. Therefore, the Commission attaches Special Condition No. 5, requiring that the development be performed consistent with the mitigation measures proposed in the amended project description for the permit application for Appeal No. A-1-MEN-00-043.

To ensure that the Commission will have the ability to review measures the project archaeologist would propose to protect any archaeological resources discovered during project construction, the Commission attaches Special Condition No. 10. This condition

requires the applicant to suspend construction of the development if cultural resources are in fact discovered during construction and prepare an archaeological plan for review and approval of the Executive Director prior to re-starting construction on the development after cultural resources have been discovered. Any changes to the development necessary to mitigate the archaeological impacts of the development that are not de minimus in nature would require an amendment to the permit.

Therefore, the Commission finds that the proposed development, as conditioned, is consistent with LUP policy 3.5-10 and Coastal Zoning Code Section 20.532.095, as archaeological resources will be protected.

E. Protection of Water Quality From Storm Water Runoff Impacts

LUP Policy 3.1-11 states that:

> *The implementation phase of the LCP shall include performance standards which shall be consistent with California Coastal Commission's Statewide Interpretive Guidelines for Wetlands and other wet Environmentally Sensitive Habitat Areas dated February 4, 1981, and required mitigation measures applicable to allowable development within Riparian Corridors. <u>These standards and measures shall minimize potential development impacts such as increased runoff, sedimentation, biochemical degradation, increased stream temperatures and loss of shade caused by development</u>. When development activities require removal or disturbance of riparian vegetation, replanting with appropriate native plants shall be required at a minimum ratio of 1:1.* (emphasis added)

Sec.20.492.025 Runoff Standards.

(A) Water flows in excess of natural flows resulting from project development shall be mitigated.

(B) If the Coastal Permit Administrator determines that a project site is too small or engineering, aesthetic, and economic factors make combined drainage facilities more practical for construction by the County, the County may require a fee and dedication of land, which the County shall use to construct these facilities. The County may allow several developers to jointly construct facilities to approved County specifications.

(C) The acceptability of alternative methods of storm water retention shall be based on appropriate engineering studies. Control methods to regulate the rate of storm water discharge that may be acceptable include retention of water on level surfaces, the use of grass areas, underground storage, and oversized storm drains with restricted outlets or energy dissipators.

(D) Retention facilities and drainage structures shall, where possible, use natural topography and natural vegetation. In other situations, planted trees and vegetation such as shrubs and permanent ground cover shall be maintained by the owner.

(E) Provisions shall be made to infiltrate and/or safely conduct surface water to storm drains or suitable watercourses and to prevent surface runoff from damaging faces of cut and fill slopes.
(F) Adequate maintenance of common and public retention basins or ponds shall be assured through the use of performance bonds or other financial mechanisms.
(G) Subsurface drainage devices shall be provided in areas having a high water table and to intercept seepage that would adversely affect slope stability, building foundations, or create undesirable wetness.
(H) A combination of storage and controlled release of storm water runoff shall be required for all development and construction within wetlands.
(I) *The release rate of storm water from all developments within wetlands shall not exceed the rate of storm water runoff from the area in its natural or undeveloped state for all intensities and durations of rainfall. The carrying capacity of the channel directly downstream must be considered in determining the amount of the release.*

LUP Policy 3.1-11 and Coastal Zoning Code Section 20.492.025 require that the impacts storm water runoff on wetlands and riparian areas from new development be mitigated.

The proposed project includes numerous best management practices and other measures to mitigate stormwater runoff impacts. Among others, the erosion and sedimentation measures proposed include:

- Installing silt fencing and straw bale dikes in critical areas where high surface runoff is expected and around spoil piles in the work area.
- Installing water bars and baffle boards,
- Installing erosion control blankets.
- Compacting subsurface backfill materials.
- Minimizing site disturbance.
- Leaving topsoil in roughened condition, except in road shoulders;
- Installing trench plugs.
- Performing temporary stabilization by seeding or mulching of disturbed areas.

The mitigation measures would include those storm water pollution prevention measures specified in Stormwater Pollution Prevention Plans for each cable line approved by the State Water Resources Control Board.

The California Department of Fish and Game has issued Streambed Alteration Agreements to the permittee for construction in and around various streams and drainages. These agreements specify additional storm water runoff mitigation measures.

With the proposed mitigation measures, the storm water pollution prevention measures specific in the approved Stormwater Pollution Prevention Plans, and the additional measures required by the Department of Fish and Game, the proposed project would

mitigate the potential impacts of storm water runoff on wetlands and riparian areas as required by LUP Policy 3.1-11 and Coastal Zoning Code Section 20.492.025. To ensure that these mitigation measures will be implemented as proposed, the Commission attaches Special Condition Nos 5, 6, and 9.

Special Condition No. 5 requires that the development be performed consistent with the mitigation measures proposed in the amended project description of the permit application for Appeal No A-1-MEN-00-043. Special Condition No. 6 requires that the development be performed consistent with the requirements of the Stormwater Pollution Prevention Plans for each cable line approved by the State Water Resources Control Board and with the requirements of the Streambed Alteration Agreements approved by the Department of Fish & Game.

Special Condition No. 9 requires that the permittee notify Commission staff of the dates when horizontal directional drilling borings would occur, to enable the staff to inspect the drilling operations to determine if the project is being performed consistent with the terms of this permit, including the requirements for implementation of storm water runoff mitigation measures.

Section 30412 of the Coastal Act prevents the Commission from modifying, adopting conditions, or taking any action in conflict with any determination by the State Water Resources Control Board or any California Regional Water Quality Control Board in matters relating to water quality. The State Water Resources Control Board has issued various approvals for the proposed project including (1) a Section 401 of the Clean Water Act Water Quality Certification, (2) an NPDES permit; and (3) Stormwater Pollution Prevention Plan approvals. As discussed above, Special Condition No. 6 requires that the permittee implement the Stormwater Pollution Prevention Plans approved by the State Board for the project. Therefore, conditions and/or Best Management Practices (BMPs) required by the Commission to mitigate adverse storm water runoff impacts to water quality from the proposed development would not conflict with any actions of the RWQCB consistent with the requirements of Coastal Act Section 30412.

F. Geologic Hazards

LUP Policy 3.4-1 states, in applicable part:

The County shall review all applications for Coastal Development permits to determine threats form and impacts on geologic hazards arising from seismic events, tsunami runup, landslides, beach erosion, expansive soils and subsidence and shall require appropriate mitigation measures to minimize such threats.

LUP Policy 3.4-4 states:

The County shall require that water, sewer, electrical, and other transmission and distribution lines which cross fault lines be subject to additional safety standards beyond those required for normal installations, including emergency shutoff where applicable

Zoning Code Section 20.500.010 states that development shall:

> *(1) Minimize risk to life and property in areas of high geologic, flood and fire hazard;*
>
> *(2) Assure structural integrity and stability; and*
>
> (3) *Neither create nor contribute significantly to erosion, geologic instability or destruction of the site or surrounding areas, nor in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.*

The Mendocino County coastal zone contains two main geologic units, the Franciscan Complex that makes up most of the mountainous terrain, and thick sequences of marine deposited sedimentary rocks found primarily in the coastal terraces. The Franciscan Complex is of Tertiary-Cretaceous age and consists mostly of marine deposited sedimentary rocks interbedded with various volcanic rocks and occasional metamorphic rocks that are usually tectonically deformed and altered. According to the geotechnical investigation prepared for the project, the sequences of marine deposited sedimentary rocks found along the project route include the German Rancho formation of Paleocene-Eocene age that consists of consolidated sandstone, mudstone, and conglomerate, and well consolidated shale, siltstone, and mudstone of the Monteery Group, and sandstone of the Galloway-Schooner Gulch formation, both of mid-Miocene age.

Land Use Plan Policy 3.4-1 provides that mitigation measures shall be required to minimize threats from and impacts on geologic hazards. Coastal Zoning Code Section 20.500.010 provides that development shall neither create nor contribute significantly to erosion, geologic instability or destruction of the site or surrounding areas.

Probably the greatest geologic concern related to the project is that horizontal directional drilling activities associated with the installation of cable conduits under or near the various drainages and wetlands along the routes could result in release of drilling fluids (bentonite) into these resource areas. Most likely is the release of bentonite as a result of a "frac-out," the propagation of fractures from the drilling bore to the surface of the ground. Frac-out results from drilling through brittle, fractured and/or poorly consolidated rocks or sediments, the maintenance of too-high fluid pressures in the bore during drilling, and drilling at too shallow a depth below the ground. Such frac-outs occurred during directional boring activities associated with an A.T.&T. fiber optic cable installation project in the Point Arena area the early 1990s that was approved by the Commission. A number of the same streams and other drainages that would be crossed

by directional drilling activities for the Williams project were adversely affected by frac-outs from the previous cable installation project.

The most effective way to guard against the release of drilling fluid into the environment through frac-out is to drill in geologic strata that are least susceptible to frac-out. A site specific geotechnical analyses of the geology at the bore site is the most effective way of determining how deep the boring must be made to avoid boring through geologic strata that is susceptible to frac-out. The applicant proposes to drill numerous directional bores within the coastal zone as part of the proposed project. In determining that Appeal No. A-1-MEN-00-043 raised a substantial issue of conformance with the policies of the certified LCP, the Commission found that additional geo technical investigations were needed of the boring sites. As approved by the County, the specific bore depth for all but a couple of the bores would have been determined in the field by the drilling contractor.

Since the November 17, 2000 hearing when the Commission acted on the substantial issue question, the applicant's geotechnical engineering consultant, Kleinfelder, Inc, has performed geotechnical analyses of many of the proposed bores to determine appropriate bore depths. Such analyses have been performed in 13 different study areas where directional bores would be drilled, including all bores that would cross underneath a drainage or wetland, and additional bores that would be drilled in close proximity to wetlands or drainages. These locations are where a frac-out could have significant impacts as these are the location where escaping bentonite would be most likely to discharge into surface waters. The methods used to perform the geotechnical analyses are discussed as follows in the geotechnical engineering report:

> "The subsurface conditions near the proposed HDD [Horizontal Directional Drilling] crossings were explored by drilling at least two exploratory soil borings in each study area where access was available. In some areas access was limited because of shoulder width or biological buffer zones. In some study areas seismic refraction was used to supplement the limited soil boring data. The exploratory soil boring logs and seismic refraction data were compared to existing geology maps and site specific geologic observation. This information formed the basis for the interpretive geologic cross-sections."

At least one exploratory soil boring was drilled in each study area, and usually two. As noted, seismic refraction as used to supplement the limited soil boring data in certain locations. In one study area, Study Area 13, near Hathaway Creek, the only data available was data from seismic refraction. No exploratory soil borings could be taken in Study Area 13 during the time period when the geotechnical investigations were performed, because the study area contains burrows of the endangered Point Arena Mountain Beaver. The U.S. Fish & Wildlife Service would not allow soil borings to be taken during the winter and spring months which are particularly sensitive time periods for the Point Arena Mountain Beaver.

The geotechnical investigations developed specific recommended drilling depths for each directional bore, and developed other recommendations for the directional boring contractors to follow. The Commission's staff geologist has reviewed the geotechnical reports prepared as part of the investigations and has determined that the reports provide adequate information for the horizontal directional drilling contractor to perform the borings in an environmentally safe manner, and recommends that the permittee be required to conduct the borings in accordance with the recommendations contained within the geotechnical reports (see Exhibit 12). Therefore, to ensure that the project will be performed safely and not contribute to geologic hazards, the Commission attaches Special Condition No. 7. This condition requires the permittee to undertake the horizontal directional drilling activities in accordance with all recommendations contained in the geotechnical reports.

The geotechnical report notes, however, that "it is possible that soil conditions could vary between or beyond the points explored," and that "variations in the occurrence and depth of specific geologic units should be anticipated." Thus, there is no certainty that geologic conditions at any given study area are in fact uniform, and that there are not unanticipated variations in grain size present at proposed drilling locations such as gravel or cobble layers more susceptible to farceurs. The uncertainty is greater in Study Area 13, where no geotechnical borings could be made because of concerns about disturbance of the Point Arena Mountain Beaver during the winter and spring months and the geotechnical investigation relied on seismic refraction techniques to determine geologic conditions.

To minimize the chances that direction drilling in Study Area 13 would be performed through soils more susceptible to farceurs than anticipated, the Commission attaches Special Condition No. 8. This condition requires that prior to the commencement of directional boring activities in Study Area 13, a supplementary geotechnical investigation of this study area must be performed that includes at least two exploratory soil borings taken during the time of year recommended by the U.S.Fish & Wildlife Service for avoiding significant impacts to the Point Arena Mountain Beaver. The condition requires that if the supplementary geotechnical investigation determines that the bore cannot be drilled safely in the manner previously recommended, the permittee must obtain a permit amendment to incorporate into the project a revised boring proposal or alternative method for routing the cable line around the resource areas the directional boring was designed to avoid, unless the Executive Director determines that no amendment is required.

As noted above, drilling in geologic strata that are least susceptible to frac-out is the most effective way to guard against the release of drilling fluid into the environment from directional boring activities. An additional way to guard against frac-out impacts is to carefully monitor the directional drilling activity as it occurs to look for indications of a frac-out before much of the drilling fluid escapes into the environment. Besides simply observing the ground for the emergence of drilling fluids, the level and pressure of drilling fluids used in the operation can be monitored. Frac-out impacts can be further minimized by replacing drilling fluid used in the directional drilling process with water whenever conditions permit.

The Commission staff geologist recommends that a monitoring plan for detecting the inadvertent release of drilling fluid be developed. Therefore, the Commission attaches special condition No. 1, which, among other things, requires that such a monitoring plan be submitted for the review and approval of the Executive Director prior to issuance of the permit. The condition also requires the permittee to replace drilling fluid with water whenever conditions permit.

With the geotechnical investigations performed by the applicant at proposed drilling sites under or near drainages and wetlands and with the precautionary measures required by Special Condition Nos. 1 and 8, the chances that a damaging frac-out would result from the proposed directional drilling activity have been minimized and such an event is unlikely to occur. However, because of the uncertainties about the exact soil conditions existing at each drilling location and the potential for human error in the directional drilling process, it cannot be guaranteed that no damaging frac-out would ever occur. The Commission's staff geologist recommends that a contingency plan detailing precautions and cleanup methods that would be employed in the event of release of drilling fluids into the environment be developed. Therefore, Special Condition No. 1 requires that such a spill contingency plan be submitted for the review and approval of the Executive Director prior to issuance of the permit. In addition, the condition requires that in the event of a spill or accidental discharge of drilling fluids during drilling operations, the permittee must cease all construction and the permittee must submit a revised project and restoration plan that provides for (1) necessary revisions to the proposed project to avoid further spill or accidental discharge of drilling fluids, and (2) restoration of the area(s) affected by the spill or accidental discharge to pre-project conditions. Construction cannot commence until any necessary amendment for the plan to be incorporated into the project has been approved. These requirements will ensure that necessary adjustments to the project to prevent further spills will be made and that the impacts of the approved development on coastal resources will be fully mitigated.

Therefore, the Commission finds that as conditioned, the proposed project is consistent with (1) the requirements of Land Use Plan Policy 3.4-1 that mitigation measures shall be required to minimize threats from and impacts on geologic hazards, and (2) Coastal Zoning Code Section 20.500.010 that development shall neither create nor contribute significantly to geologic instability or destruction of the site or surrounding areas.

G. Visual Resources

LUP Policy 3.5-1 states in applicable part:

> *The scenic and visual qua1ities of Mendocino County coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal*

areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas and, where feasible, to restore and enhance visual qua1ity in visually degraded areas. New development in highly scenic areas designated by the County of Mendocino Coastal Element shall be subordinate to the character of its setting.

LUP Policy 3.5-3 states in applicable part:

The visual resource areas listed below are those which have been identified on the land use maps and shall be designated as "highly scenic areas," within which new development shall be subordinate to the character of its' setting. Any new development permitted in these areas shall provide for protection of ocean and coastal views from public areas including highways, roads, coastal trails, vista points, beaches, parks, coastal streams, and waters used for recreational purposes.

Portions of the coastal zone within the Highly scenic area west of Highway 1 between the Navarro River and the north boundary of the City of Point Arena as mapped with noted exceptions and inclusions of certain areas east of Highway 1.

In addition to other visual policy requirements, new development west of Highway One in designated 'highly scenic areas' is limited to one-story (above natural grade) unless an increase in height would not affect public views to the ocean or be out of character with surrounding structures. …New development should be subordinate to the natural setting and minimize reflective surfaces. …

Zoning Code Section 20.504.015(C)(1) states that:

Any development permitted in highly scenic areas shall provide for the protection of coastal views from public areas including highways, roads, coastal trails, vista points, beaches, parks, coastal streams, and waters used for recreational purposes.

Zoning Code Section 20.504.015(C)(3) states that:

New development shall be subordinate to the natural setting and minimize reflective surfaces. In highly scenic areas, building materials including siding and roof materials shall be selected to blend in hue and brightness with their surroundings.

LUP Policy 3.5-1 and Zoning Code Section 20.504.010 require that permitted development be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas. These policies require that new development in highly scenic areas be subordinate to the character of its setting.

Construction of the proposed project will create temporary visual impacts . However, the relatively short duration of the project and the applicant's proposal to restore road surfaces and revegetate areas of disturbed soil will minimize these temporary adverse visual effects.

Except for manhole covers atop underground utility vaults, no permanent facilities would be installed above ground except for cable marker poles, to alert people to the presence of the fiber optic cable. These markers would consist of 3.5-inch diameter round PVC posts with orange caps 4 feet above ground. The caps are proposed to be imprinted with embossed lettering indicating the presence of fiber optic cable.

The sections of the proposed cable lines that would extend from the Manchester Telecommunications Facility along Kinney Road and south along Highway One to the City limits of Point Arena are designated highly scenic areas in the certified LCP. The other sections of the route, though not proposed within designated highly scenic areas, would still be in areas with significant visual resources as the lines would follow public roads that traverse through open lands that in many locations afford significant views of the ocean and scenic coastal areas.

The proposed cable markers would be very visible to motorists and would appear in stark contrast to the surrounding largely undeveloped scenic area. If not sited and designed to minimize visual obtrusiveness, the cable markers would not be visually compatible to the with the character of surrounding areas or subordinate to the character of its setting. Therefore, the Commission attaches Special Condition No. 2 which requires the applicant prior to issuance of the coastal development permit to submit for the review and approval of the Executive Director a cable marker plan that provides that the cable markers will be (a) spaced along the cable line routes on average at least 700 feet apart from one another, as proposed in the permit application; (b) designed to be the minimum height above finish grade necessary; (c) designed to be the minimum width or diameter necessary; (d) combined with existing cable markers and other markers and signs to the greatest extent possible; and (e) located in proximity to trees, buildings, or other structures as much as possible. As conditioned, the Commission finds that the proposed development has been sited and designed to minimize visual impacts and will be compatible with the character of surrounding areas and within highly scenic areas, subordinate to the character of its setting consistent with LUP Policy 3.5-1 and Zoning Code Section 20.504.010.

H. Public Access

Section 30210 of the Coastal Act requires that maximum public access shall be provided consistent with public safety needs and the need to protect natural resource areas from overuse. Section 30212 of the Coastal Act requires that access from the nearest public roadway to the shoreline be provided in new development projects except where it is inconsistent with public safety, military security, or protection of fragile coastal resources, or adequate access exists nearby. Section 30211 requires that development not interfere with the public's right to access

gained by use or legislative authorization. Section 30214 of the Coastal Act provides that the public access policies of the Coastal Act shall be implemented in a manner that takes into account the capacity of the site and the fragility of natural resources in the area. In applying Sections 30210, 30211, 30212, and 30214, the Commission is also limited by the need to show that any denial of a permit application based on these sections, or any decision to grant a permit subject to special conditions requiring public access, is necessary to avoid or offset a project's adverse impact on existing or potential access**.**

The proposed project would not adversely affect public access. No permanent improvements are proposed that would block public access to the coast. Construction of the fiber optic cable line may cause temporary traffic disruptions along Kinney Road, Highway One, and other roads that the public travels to gain access to Manchester State Beach and other coastal access points. However, such disruptions would be of short duration and would not significantly impair the public's ability to reach coastal access areas. Concerns have been raised that the proposed trenching within the traveled way of certain segments of road along the cable lines would leave these roads in a condition that would impair access to the coast. The Commission notes that the applicant proposes to restore road surfaces affected by project construction. Encroachment permits secured from both Caltrans and the Mendocino County Department of Transportation specify that the permittee shall be responsible for full restoration of all damaged portions of the roads. Therefore, the project would not leave Highway One and County roads in a condition that would impair access to the coast.

As the proposed development would not increase the demand for public access to the shoreline and will have no other impacts on existing or potential public access, the Commission finds that the proposed project, which does not include provision of public access, is consistent with the public access policies of the Coastal Act and the County's LCP.

I. Alleged Violation.

Approximately 800 feet of the proposed Point Arena to Sacramento cable line has already been installed at the inland end of the coastal zone without benefit of a coastal development permit. The proposed project would resolve this alleged Coastal Act violation by authorizing this portion of the cable installation as part of the permit for installation of the other portions of the cable lines. Although cable installation occurred without required authorizations, consideration of this permit application by the Commission for its removal has been based solely upon the Chapter 3 policies of the Coastal Act. Approval of the permit does not constitute a waiver of any legal action with regard to the alleged violation, nor does it constitute an admission as to the legality of any development undertaken on the subject site without a coastal permit.

J. California Environmental Quality Act.

Section 13096 of the Commission's administrative regulations requires Commission approval of a coastal development permit application to be supported by findings showing that the11A. Proposed Mitigation Measures: Pt. Arena to Robbins Route application, as modified by any conditions of approval, is consistent with any applicable requirement of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available, which would substantially lessen any significant adverse effect the proposed development may have on the environment.

The Commission incorporates its findings on conformity with LCP policies at this point as if set forth in full. As discussed herein, in the findings addressing the consistency of the proposed project with the certified LCP, the proposed project has been conditioned to be found consistent with the Mendocino County LCP. Mitigation measures which will minimize all adverse environmental impacts have been required. As conditioned, there are no feasible alternatives or feasible mitigation measures available, beyond those required, which would substantially lessen any significant adverse impact that the activity may have on the environment. The findings also discuss the public comments regarding potential significant adverse environmental effects of the project that were received prior to preparation of the staff report. Therefore, the Commission finds that the proposed project can be found to be consistent with the requirements of the Coastal Act to conform to CEQA.

Exhibits

1. Regional Location Map- Point Arena to Robbins Cable Route
2. Site Location Map- Point Arena to Robbins Cable Route
3. Regional Location Map- Point Arena to Sacramento Cable Route
4. Site Location Map- Point Arena to Sacramento Cable Route
5. Notice of Final Action and Findings and Conditions of Approval
6. Appeal to Commission, September 15, 2000
7. Resource Maps
8. Construction Plans: Pt. Arena to Robbins Route
9. Construction Plans: Pt. Arena to Sacramento Route
10. Environmental Resource Areas

11A. Proposed Mitigation Measures: Pt. Arena to Robbins Route

11B. Proposed Mitigation Measures: Pt. Arena to Sacramento Route

12. Coastal Commission Geologist's Memorandum
13. Department of Fish & Game Comments on Buffers
14. Appellant's Correspondence
15. Applicant's Correspondence on Buffers

ATTACHMENT A

Standard Conditions:

1. Notice of Receipt and Acknowledgment. The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.

2. Expiration. If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.

3. Interpretation. Any questions of intent of interpretation of any condition will be resolved by the Executive Director or the Commission.

4. Assignment. The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.

5. Terms and Conditions Run with the Land. These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.